

TOWN OF NEW WINDSOR

ZONING BOARD OF APPEALS

Regular Session - May 22, 2006

AGENDA

7:30 p.m. – Roll Call

Motion to accept minutes of **MAY 8, 2006** meeting(s) as written.

PRELIMINARY MEETINGS:

1. **JAMES BERKOWITZ (06-30)** Request for 8ft. Rear Yard Setback for proposed 16 ft. X 41 ft. rear deck at 2028 Independence Drive in an R-3 Zone **(77-3-10)**

2. **HOFFMAN-WALKER (for McHugh) (06-31)** Request for:

LOT #4:	21,447 s.f. Minimum Lot Area	LOT #5:	30,164 s.f. Minimum Lot Area
	30.3 ft. Front Yard Setback		4.1 ft. Front Yard Setback
	10.1 ft. Rear Yard Setback		12.4 ft. Rear Yard Setback
	217 s.f. Livable Area		

for proposed Lot Line Change on Beaver Brook Road in an R-4 Zone **(58-3-4 & 5)**

3. **RICHARD SKINNER (06-32)** Request for 10 ft. Side Yard Setback and; 3 ft. Rear Yard Setback for existing shed at 40 Forest Hill Road in an R-4 Zone **(44-2-4)**
4. **MICHAEL THOMAS (06-33)** Request for 5 ft. Side Yard Setback and; 5 ft. Rear Yard Setback for proposed in-ground pool at 2713 Colonial Drive in an R-3 Zone **(77-6-8)**

PUBLIC HEARINGS:

5. **AM MART INC. (MASOOD) (06-18)** Request for 96 sq. ft. free-standing sign and; 5 ft. height for proposed sign at 419 Windsor Highway in a C Zone **(69-3-6)**
6. **DAVID & EILEEN GARCIA (06-19)** Request for Interpretation and/or Use Variance for proposed addition with second kitchen or two-family dwelling at 40 Willow Parkway in an R-4 Zone **(38-3-56)**
7. **THOMAS HURLEY (06-21)** Request for 5 ft. Side Yard Setback and; 3 ft. Total Side Yard Setback for proposed 24' above-ground pool at 2036 Independence Drive (THE RESERVE) in an R-3 Zone **(76-4-13)**
8. **JOHN & SHARON BETTS (06-07)** Request to replace existing single-family home with a larger single-family home in a C-Zone on Rt. 94 **(69-4-10)**
9. **CARLOS GOMEZ (06-23)** Request for 33 ft. Rear Yard Setback for proposed attached rear deck at 8 Cresthaven Dr. in an R-4 Zone **(39-3-5)**

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

May 22, 2006

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
KIMBERLY GANN
KATHLEEN LOCEY
ERIC LUNDSTROM
PAT TORPEY

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

REGULAR MEETING

MR. KANE: I'd like to call to order the May 22, 2006
meeting of the New Windsor Zoning Board.

MINUTES_OF_MAY_8,_2006

MR. KANE: Motion to accept the minutes of May 8, 2006
as written?

MS. GANN: So moved.

MR. LUNDSTROM: Second it.

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ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE
MR. KANE	AYE

PRELIMINARY_MEETINGS:

JAMES_BERKOWITZ_(06-30)

MR. KANE: Request for 8 ft. rear yard setback for proposed 16 ft. x 41 ft. rear deck at 2028 Independence Drive.

Mr. James Berkowitz appeared before the board for this proposal.

MR. KANE: What we do in New Windsor is we actually hold two meetings, a preliminary meeting so we can get an idea of what you want to do, okay, and make sure that you have everything that we need to make a decision. Some towns you walk in cold, there's one meeting, you don't have it, you lose. So that's why we do that two step here. What we do right now will basically be repeated in a public hearing except at that point all your other neighbors will have a chance to speak. You have to tell us what you want to do.

MR. BERKOWITZ: Basically want to put a deck off the back of our house and what's nice is there's really nobody behind us as far as neighbors, hopefully, it won't be a big disturbance because a lot of the homes in your neighborhood go back to back, we're on the edge of the development so we want to do that to build that onto the back of our house.

MR. KANE: Going to be cutting down any substantial vegetation or trees in the building of the deck?

MR. BERKOWITZ: None at all.

MR. KANE: Creating any water hazards or runoffs in the building of the deck?

MR. BERKOWITZ: No, not that I'm aware of. I brought some photographs, Myra asked me to bring some with

views from the back of the house, I included some in my initial application for facing from the back yard towards the house, these are from the house looking out so shows the back yard. There's no trees to be cut, pretty flat.

MR. KANE: And the 16 x 41 deck is going to come out 16 feet from the house and run the length of the house?

MR. BERKOWITZ: Yeah, well, it's going to be 16 x 39, 41 is just the steps on either side would be another 4 feet on each side so the actual will, the main part of the deck is 33 feet long, may even be shorter than that but it won't be any bigger than what's there but it's not going to be any further out than 16 feet.

MR. KANE: The deck will be similar in size and nature to other decks in your neighborhood?

MR. BERKOWITZ: Yes, several I've seen many of them.

MR. KANE: Okay, pretty straightforward.

MR. LUNDSTROM: How high is the deck off the ground?

MR. BERKOWITZ: I would say maybe 6, I'm not exactly sure but I think it's about maybe 6 to 8 feet maybe anywhere between 7.

MR. LUNDSTROM: Current photographs show a staircase coming down would be at the level where the staircase meets the house?

MR. BERKOWITZ: Exactly, and I would lattice that part in so it would look aesthetically pleasing to my neighbors.

MR. LUNDSTROM: Question I have it's confusing is this plan that you've drawn shows your property as square yet the tax map--

MR. BERKOWITZ: I didn't draw that.

MR. LUNDSTROM: Whoever did it appears that the property is square.

MR. BERKOWITZ: No, it's more triangular.

MR. LUNDSTROM: That's what's confusing me because the tax map shows it's triangular on this tax map. Where is your house located?

MR. BERKOWITZ: My house if I can draw on this?

MR. LUNDSTROM: Please do.

MR. BERKOWITZ: My house is situated more towards this side and there's about from this back corner I believe it's a 15 foot distance, my deck would come off this back corner here, it would be more like toward the middle so it's, that's where it would be.

MR. BABCOCK: I can straighten that out, if you look at underneath the house right by the deck it's got a triangle that says lot number 10, that's actually the square property is builder's lot 10 and this gentleman lives on section, block and lot 10 so it's not, their survey is incorrect, we'll change that.

MR. BERKOWITZ: Thank you.

MR. KANE: You'll have that for the public?

MR. BABCOCK: Yes.

MS. GANN: Accept a motion?

MR. KANE: One quick question, the deck ends, how many feet are we looking at to the back of the property?

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MR. BERKOWITZ: Sixteen feet off the back of the house, it would be no more than 16 feet.

MR. KANE: You have 22 feet right now to the back of your property line?

MR. BERKOWITZ: I believe it's 30, sir, I believe on the closest corner from my house to my back yard.

MR. KANE: So it will leave 14 feet approximately?

MR. BERKOWITZ: I believe so, yeah, at the shortest part of that, there's a much wider part.

MR. KANE: Okay, I'll accept a motion.

MS. GANN: I will offer a motion to set up James Berkowitz for a public hearing for his request for 8 foot rear yard setback for proposed 16 x 41 foot rear deck at 2028 Independence Drive in an R-3 zone.

MR. TORPEY: Second it.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE
MR. KANE	AYE

HOFFMAN-WALKER_(FOR_MCHUGH)_(06-31)

Mr. Bill Walker appeared before the board for this proposal.

MR. KANE: Request for lot \$4, 21,447 square foot minimum lot area, 30.3 foot front yard setback, 10.1 foot rear yard setback and 217 square foot livable area, for lot #5, 30,164 square foot minimum lot area, 4.1 foot front yard setback and 12.4 foot rear yard setback for proposed lot line change on Beaver Brook Road.

MR. WALKER: My name is Bill Walker representing Gerilyn McHugh, the applicant, myself representing the owner would like to request what we have is existing, we have two pre-existing, non-conforming lots and right now the accessory building which is a garage actually encroaches and goes over the existing tax lot line, McHughs are owners of both lots so it has not been an issue. In order to clear that up what they'd like to do is slide the lot line closer towards Beaver Brook Road where you will see the proposed lot line meeting the current 20 foot setback and convert the existing accessory structure into a single family residence on the what would be the new additional lot.

MR. LUNDSTROM: Would it be possible to hold the plot plan up so the rest of us can see it?

MR. WALKER: I'll walk to each, right now, this is the existing tax lot line so this is one lot and this is one lot with the house and garage and the garage is currently over 3 1/2 feet so to rectify that what they'd like to do is slide the lot line down here to the proposed lot line, make this one lot and start the second lot which would encompass this area and in addition to that meeting the 20 foot setbacks they'd like to convert this to a single family residence. Obviously, you can't have an accessory building on a

lot without a single family and they're both obviously a lot of the setbacks are pre-existing so they do not conform to the current.

MR. KANE: We're not talking about putting a new building, talking about converting the garage into a single family residence.

MR. WALKER: Correct.

MR. BABCOCK: Mr. Chairman, there's the two lots there now, all the existing setbacks are there, now we're just clearing them up, what's changing is the two lots are changing in size, one right now the lot line goes through the garage and they're moving it over so that the lot line is not through the garage and now there's still two lots just making one bigger, one smaller and that's all they're doing.

MR. KANE: It's just a big square footage area that we're looking at kicking down, how did we get a piece of property right on the lot line, how did we get a building on the lot line?

MR. BABCOCK: It's over the lot line, they own it so apparently didn't make a difference at a time.

MR. KANE: Building predates zoning.

MR. BABCOCK: I would probably assume it does but really nothing is changing, they're moving the lot line over to make it make sense, therefore, they're making one lot bigger and one lot smaller which is actually better cause the number 4 lot, what size is that right now?

MR. KANE: Existing 8,000 square feet.

MR. BABCOCK: So 8,000 square feet is just too small.

MR. KANE: So we're pulling 5,000 square foot from the other one making it 13.

MR. BABCOCK: That's right and the non-conforming lot of record in the old zoning you could build on 5,000 square feet with water and sewer, so they're making it better in all ways.

MR. TORPEY: Still one piece of property.

MR. KANE: It's going to be two.

MR. WALKER: It's currently two and will stay two.

MR. BABCOCK: It's one bigger lot, one small lot now it's going to be two medium sized lots and the lot line's not going to go through the building anymore.

MR. KANE: Ask the questions anyway, going to be cutting down any trees, substantial vegetation?

MR. WALKER: No.

MR. KANE: Creating any water hazards or runoffs?

MR. WALKER: No.

MR. LUNDSTROM: Mike, would this proposed lot line will the setbacks be adequate?

MR. BABCOCK: Yes, what he's creating is a 20 foot setback and everything that he's asking for a variance is existing.

MR. KANE: Okay, makes sense. Any other questions?

MR. BABCOCK: The garage was built in 1975, Mr. Chairman, and does have a C.O.

MR. LUNDSTROM: Offer a motion to allow Hoffman-Walker

to proceed to public hearing for proposed lot line change on Beaver Brook Road in an R-4 zone, Section, Block and Lot 58-3-4-5.

MS. LOCEY: I'll second it.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE
MR. KANE	AYE

MR. KANE: Everybody do we have enough in pictures and that kind of stuff from this gentleman? Do you need anything more to make a decision on this for the public hearing?

MR. TORPEY: It's pretty self-explanatory.

MR. KANE: Okay.

RICHARD_SKINNER_(06-32)

MR. KANE: Request for 10 ft. side yard setback and 3 ft. rear yard setback for existing shed at 40 Forest Hill Road.

Mr. Richard Skinner appeared before the board for this proposal.

MR. KANE: Good evening, Mr. Skinner, tell us what you want to do, sir.

MR. SKINNER: I'm just asking for a ten foot side yard setback and a three foot rear yard setback for existing shed.

MR. KANE: How long has the shed been up?

MR. SKINNER: About ten years, I guess.

MR. KANE: Cut down any trees substantial vegetation in the building of the shed?

MR. SKINNER: No but there was trees cut down after that.

MR. KANE: But nothing with the building of the shed?

MR. SKINNER: No.

MR. KANE: Creating any water hazards or runoffs?

MR. SKINNER: No.

MR. KANE: Over the ten years, any complaints formally or informally about the shed?

MR. SKINNER: No.

MR. KANE: Shed is similar in size and nature to other

sheds in your neighborhood?

MR. SKINNER: Well, I would say yes, the ones that were there, there isn't any there now, they're torn down.

MR. KANE: But it was, it's a normal size shed?

MR. SKINNER: Yes.

MR. LUNDSTROM: What type of platform is the shed on?

MR. SKINNER: It's on plywood with raised 4 x 4s.

MR. KANE: And you understand that in a public hearing if they grant your request that you're still subject to meeting all of the building department's requirements?

MR. SKINNER: Yes.

MS. LOCEY: And that's an existing shed?

MR. KANE: Yes.

MR. LUNDSTROM: Just a question in one or two of the photos I'm looking particularly with this one here it looks like this shed is very close to the fence, is the fence on the property line?

MR. SKINNER: No, well, the fence is on the other person's property line, my property line is probably just there's I think it's 18 inches in between them.

MR. LUNDSTROM: Between the fence and the property line?

MR. SKINNER: Yes.

MR. LUNDSTROM: So the fence is actually on your property?

MR. SKINNER: No, the fence is on my neighbor's property.

MR. LUNDSTROM: This is your property and this shows the fence being here and that's why it appears that the shed is very close to the fence because the fence is on your property, is that not correct or is it correct?

MR. SKINNER: I don't know, the way understood it, the marker's over here and I didn't realize it from what I seen the marker and the fence is, the fence is right over through here, this fence is not there according to that drawing because they just put that fence up about a year and a half ago, I guess two years ago.

MR. LUNDSTROM: Mike, can we get some clarification if you get a chance?

MR. BABCOCK: We won't be able to get that tonight.

MR. LUNDSTROM: Doesn't need to be but for the public hearing if you want to take a look at this.

MR. BABCOCK: I see exactly what you're saying, this survey is quite old so it would not show the fence that this gentleman's talking about that was just put up a year ago so this must have been either an existing fence that's either been taken down--

MR. LUNDSTROM: But on the first page of photographs the top photograph does show a fence very close to the back of the shed, that's what originally raised the question.

MR. KANE: That's what he's asking for is the full 10 foot on the side so it would be right up against the fence and 7 feet from the back which would leave a three foot gap cause he's looking at 10 x 10.

MR. BABCOCK: The fence on the survey has been long

gone and they have moved their shed up into that corner and that's why towards the neighbor's fence.

MR. KANE: What we would look at is that that may not be there, it may be back over here.

MR. LUNDSTROM: Okay, but if you look at the first photograph it shows it very close.

MR. KANE: But he's asking for the correct thing by that photograph because it's right up against the fence.

MR. SKINNER: There isn't a lot of room back there.

MR. KANE: Okay?

MR. LUNDSTROM: Yes.

MR. KANE: I'll accept a motion.

MS. GANN: I will offer a motion to set up Richard Skinner for a public hearing for his request for 10 foot side yard setback and 3 foot rear yard setback for existing shed at 40 Forest Hill Road.

MS. LOCEY: Second that motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE
MR. KANE	AYE

MICHAEL_THOMAS_(06-33)

MR. KANE: Request for 5 ft. side yard setback and 5 ft. rear yard setback for proposed in-ground pool at 2713 Colonial Drive.

Mr. and Mrs. Michael Thomas appeared before the board for this proposal.

MR. KANE: Tell us what you want to do.

MR. THOMAS: We're planning to put an in-ground pool on our property and at the side of the property.

MR. TORPEY: That's a pretty good drawing.

MR. KANE: Let me ask the obvious question, why this way and why not turn it that way?

MR. THOMAS: Well, what we're trying to do is trying to preserve most of the back yard space.

MRS. THOMAS: There's not a lot back there so we're trying to.

MR. KANE: Everybody in there has been in here.

MRS. THOMAS: So we're trying to utilize the space that we have on the side to preserve some of the stuff that we have in the back, we have just like that whole big empty space there on the side of the house so we can, we thought it would be the most appropriate place for it to go.

MR. KANE: Look at at eight or ten foot from there and eight foot from there from the corner to the proposed area and this is going to, you're going to have enough room to fence this in?

MR. THOMAS: Yes.

MR. TORPEY: How big is the pool?

MR. KANE: Sixteen by thirty-two which is not overly big.

MR. LUNDSTROM: There are other pools in that neighborhood similar to this?

MRS. THOMAS: Yes, we have one in front of us, one to the left of us and then another one right beside that one.

MR. LUNDSTROM: Same size?

MRS. THOMAS: Actually, the one next to us is a little smaller but the one beside that house is bigger, it's 17 by I think 32 and the one in front of us is bigger also.

MR. TORPEY: You gotta go bigger than that.

MR. LUNDSTROM: The location of the other pools are they relatively in the same area that you're looking to put yours in?

MRS. THOMAS: Relatively, yes, pretty much, yeah.

MR. KANE: Going to be cutting down, that may seem dumb, but I gotta ask, cutting down any trees or substantial vegetation?

MR. THOMAS: No.

MR. KANE: Wish you had some. Any water hazards or runoffs?

MR. THOMAS: No.

MR. KANE: Any easements running through that area that

you know of?

MR. THOMAS: No easements.

MR. KANE: I have no further questions at this time.
Anybody else? I'll accept a motion.

MS. LOCEY: I will offer a motion to schedule a public hearing on the application of Michael Thomas and the request for five foot side yard setback and five foot rear yard setback for proposed in-ground pool at 2713 Colonial Drive in an R-3 zone.

MR. TORPEY: I will second that.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE
MR. KANE	AYE

PUBLIC HEARINGS:

AM_MART_INC._(MASOOD)_(06-18)

MR. KANE: Request for 96 square foot free-standing sign and 5 foot height for proposed sign at 419 Windsor Highway.

Mr. Arif Masood appeared before the board for this proposal.

MR. KANE: Just like in the preliminary, tell us what you want to do.

MR. MASOOD: My name is Arif Masood, I'm the owner of the property AM Mart, 419 Windsor Highway Vails Gate and I want to put a price sign for my gas station which is going to be Shell and I requested for a size of 20 feet high and five feet wide sign and the existing one was blown off by a wind which was 17 1/2 feet high and this is my request for the Town to look into it and if possible approve it.

MR. KANE: Is there an existing sign there now?

MR. MASOOD: There's no existing sign there.

MR. LUNDSTROM: There was before it was blown down?

MR. MASOOD: Yes.

MS. GANN: What was the difference between the old sign and this sign, I'm sorry?

MR. MASOOD: I have a picture, can I show you?

MR. KANE: Please.

MR. MASOOD: This was the old sign.

MS. GANN: What's the proposed new sign?

MR. MASOOD: That will look like this.

MS. GANN: So it's not much higher than the old one.

MR. MASOOD: No, this is the old picture, this was 17 1/2 feet high and this one is going to be 20 feet.

MR. LUNDSTROM: How would this be anchored so the wind doesn't affect it?

MR. MASOOD: This will be according to the specs for wind, I don't know.

MR. KRIEGER: So it will be 2 1/2 feet higher than the old sign. Will it be narrower?

MR. MASOOD: Yes, it will be narrower.

MR. KRIEGER: About how much narrower?

MR. MASOOD: It was like something like this diagram and this was 11 1/2 feet.

MR. KRIEGER: Old one was 10 feet?

MR. MASOOD: Four feet this way and 4 feet this way.

MR. KRIEGER: This will be 8 feet and the old one was 10 feet?

MR. MASOOD: No, this is going to be 5, the new one--

MR. KANE: The signs are internally illuminated?

MR. MASOOD: Yes.

MR. KANE: Any flashing lights on them?

MR. MASOOD: No, sir.

MR. KANE: And the height of the sign if I remember correctly is actually going to be, going to be similar with other gas stations as far as height that are on that corner?

MR. MASOOD: They have different heights.

MR. KANE: They're pretty close?

MR. MASOOD: Yes.

MR. KANE: At this point, I will open it up to the public and ask if anybody's here for this particular hearing? Come on up, state your name and address.

MS. JONES: Okay, well, I'm not actually here for this particular hearing, but I will ask the question anyway, Rebecca Jones, 30 Willow Parkway, New Windsor, which gas station is this?

MR. MASOOD: DB Mart.

MR. BABCOCK: Right next to Key Bank.

MS. JONES: Thank you.

MR. KANE: Anybody else? We'll close the public portion of the hearing, bring it back to Myra, ask how many mailings we had?

MS. MASON: On May 5, I mailed out 28 envelopes and had no response.

MR. KANE: Any further questions? I'll accept a motion.

MS. GANN: I will offer a motion that we grant AM Mart Inc. Mr. Masood for a request for 96 square foot

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freestanding sign and five foot height for proposed sign at 419 Windsor Highway in a C zone.

MS. LOCEY: I will second that motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE
MR. KANE	AYE

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DAVID_ & EILEEN_GARCIA_(06-19)

MR. KANE: Request for interpretation and/or use variance for proposed addition with second kitchen or two-family dwelling at 40 Willow Parkway in an R-4 zone.

Ms. Eileen Garcia appeared before the board for this proposal.

MR. KANE: Just like the preliminary meeting, you want to tell us what you want the do.

MS. GARCIA: Okay, we have approval already for the addition we're putting an apartment in for my mom who currently lives with me and we're just looking for approval for a kitchen.

MR. KANE: For the record the apartment is strictly for family use not being built to rent out in the future?

MS. GARCIA: No.

MR. KANE: The gas and the electric coming into that, into your home and in that particular section of your home is on all one meter?

MS. GARCIA: All the same meter, same sewer, water.

MR. KANE: Your intent is to use the home as a one family home strictly?

MS. GARCIA: Yes, my mom has osteoarthritis and she's not well and I want to continue to take care of her.

MR. KANE: What we try to do with the building department is to just cover all the safety issues. I grew up where there was summer kitchens and basements and so we want to make sure there's not illegal apartments.

MS. GARCIA: I don't want strangers living in my house.

MR. KANE: So it's a single family house, always was a single family house, always will be a single family house?

MS. GARCIA: That's right, I don't want strangers living in my home.

MR. KANE: Okay, at this point, I will ask if there's anybody in the audience for this hearing?

MR. REIS: Michael Reis, 48 Willow Parkway, I just wanted to make sure that this is going to be looked on as a single-family home and not as a two-family home.

MS. GARCIA: Yes, my home, she lives with me right now so we're just going to move her into an apartment so she has some privacy.

MR. KRIEGER: That's why I put it exactly that way.

MR. REIS: Thank you.

MR. KRIEGER: Sold as a single family home.

MS. JONES: Rebecca Jones, 30 Willow Parkway, does this apartment have its own entrance?

MS. GARCIA: She'll have an outside entrance but there's an entrance that's in my home so I can be able to go in and out.

MS. JONES: With the owners with its own entrance is it conceivable should you sell your house that in addition--

MR. KANE: Anything is conceivable, she's putting on record that her intent is a single family home,

anything can be conceivable so--

MR. KRIEGER: So if somebody converts it to a two family they'd be breaking the law.

MS. JONES: I see, okay.

MR. KANE: Any other questions?

MS. JONES: No, that's it.

MS. WILLIAMS: Agnes Williams, 21 Willow Parkway. I just came to see what goes on, I have never been to one of these before and I think a lot of people are worried because down our little lane there's a house that was a ranch and they made it into a second story and I understand maybe I'm wrong some people are wrong that it is now a two family, I think people are worried about that.

MR. KANE: That's exactly why the building department while they're building these and putting another kitchen in that they bring them in here, we get it on record that it is the use of that particular building in there so that the right things are done, we're really trying to go after the illegal apartments.

MS. WILLIAMS: They can sneak it in.

MR. KANE: Anybody can sneak anything in, when you complain, the building department gets somebody out and checks it out. If they don't let them in, the tax department can tax them as a two family until they let them in.

MS. WILLIAMS: Years ago they were allowed to do that, a lot of people with two kitchens on Willow Parkway. There are several of them.

MR. KANE: Quite possible.

MS. WILLIAMS: They're one family but who knows like I said what can happen.

MR. KANE: Until something happens or somebody complains and the building department gets involved and looks, there's nothing anybody can do.

MS. WILLIAMS: I know her situation so I knew that I assumed it was going to be for her mother's care.

MR. KANE: You have no problem?

MS. WILLIAMS: No.

MR. KANE: Any problem?

MS. JONES: When you say until someone complains, how would you even know?

MR. KANE: You don't.

MR. KRIEGER: One of the hazards that a person with an illegal two-family residence is going to run into probably they're not aware of it when they start out to do that is if they have a tenant and they ever have to evict the tenant you have no legal standing to bring an eviction action. As far as how you would know if there were increased activity that you would know through, you'd be alerted through impact in the neighborhood which is why there's a limit on two family homes.

MR. KANE: Too many cars coming in, parking, people call, they complain, that kind of stuff, you just see it. There are specific laws about X amount of relatives living in the home, they have to be a relative, there's a lot of things that try and cover that but that's again that's why we make them come in here and state it right here for the record that that's their intent.

MR. LUNDSTROM: I think the other safety valve that's built in if someone does illegally convert their single-family home into a two-family home sometime in the future they try to sell it as a two-family home the bank will send a letter to the Town asking what they call a title search is this a legal two-family home, the Town will go back and say it's an illegal two-family home and the new buyer will not be able to get a mortgage until it's brought up to code and re-converted back to a single-family home, so there are some procedures in place to protect the general population.

MS. JONES: So my concern was of course two-family home and the variance was only for this particular house?

MR. KANE: That's correct.

MS. JONES: They can put a kitchen and have this room available for her mother.

MR. KANE: And the inner door is crucial.

MS. JONES: And then it would not be recognized in any sense, any legal sense as a two-family home.

MR. KANE: That's why we peppered her with those questions to make sure.

MR. REIS: Mr. Chairman, Eileen, how many rooms is being added on?

MS. GARCIA: She's going to have a little kitchen, we hope, a living area, bathroom and bedroom.

MR. REIS: Okay.

MS. GARCIA: We had the den we had we actually tore down because the structure was unsound when we started

taking the walls down we realized it wasn't sound so we tore it down and they're just going to add the, put that piece back up and add on.

MR. REIS: And chairman asked you earlier about the heating system, you're not adding another heating system?

MS. GARCIA: No, it's all going to be on my bill, the septic, the water, the heat, everything, no separate meters.

MR. REIS: Thank you.

MR. KANE: Any other questions? At this point I'll close the public portion of the meeting, ask Myra how many mailings we had.

MS. MASON: On May 5, I mailed out 39 addressed envelopes and had no response back.

MR. KANE: Back to the board, any further questions?

MR. LUNDSTROM: I have none.

MR. KANE: I'll accept a motion.

MR. LUNDSTROM: I will offer a motion granting the approval of David and Eileen Garcia regarding request for a second kitchen in a one-family dwelling on 40 Willow Parkway in an R-4 zone, Section, Block and Lot 38-3-5.6.

MS. GANN: I will second the motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MR. TORPEY	AYE

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MS. LOCEY
MR. KANE

AYE
AYE

THOMAS_HURLEY_(06-21)

Mr. Thomas Hurley appeared before the board for this proposal.

MR. KANE: Request for 5 ft. side yard setback and 3 ft. total side yard setback for proposed 24' above-ground pool at 2036 Independence Drive. Just like the preliminary meeting, tell us what you want to do.

MR. HURLEY: My name is Tom Hurley, I'm the owner and resident on 2036 Independence Drive, I'd like to put a 24 foot round above-ground pool in the rear quarter of the yard.

MR. KANE: Cutting down trees, substantial vegetation in the building of the pool?

MR. HURLEY: No.

MR. KANE: Creating any water hazards or runoffs?

MR. HURLEY: No.

MR. KANE: And for your neighborhood you don't consider the pool to be overly big?

MR. HURLEY: No.

MR. LUNDSTROM: Any easements running through where you want to put the pool?

MR. HURLEY: No.

MR. KANE: You're going to have this fenced in, your yard?

MR. HURLEY: Yes.

MR. KANE: And the pool will be more than four feet away from the fence showing five feet here?

MR. HURLEY: Yes, actually, it's going to be a little more.

MR. LUNDSTROM: Pool will not be attached to the dwelling that's there?

MR. HURLEY: No.

MR. KANE: Okay, I will ask if anybody in the audience is here for this particular hearing? Nobody cares. We'll bring it back to Myra, how many mailings?

MS. MASON: On May 5, I mailed out 37 envelopes and had no response.

MR. KANE: Any further questions?

MS. LOCEY: Would you identify where in these photos the pool will go?

MR. HURLEY: Right here.

MR. KANE: Any further questions? I'll accept a motion.

MS. LOCEY: I will offer a motion on the application of Thomas Hurley to grant his request for five foot side yard setback and three foot total side yard setback for proposed 24 foot above-ground pool at 2036 Independence Drive.

MS. GANN: I will second the motion.

MR. KANE: One question, Mike, is that 7 foot off the back he's going to need a three foot rear?

MR. BABCOCK: Yeah, it's on here.

MR. KANE: Says total side.

MR. BABCOCK: We got it in the wrong spot, Mr. Chairman.

MR. KANE: So we're going to correct that to rear three foot rear yard?

MS. LOCEY: Three foot rear yard setback so to amend the resolution to indicate three foot rear yard setback.

MR. BABCOCK: On the first sheet it's x'd then it's rear yard, I don't know how but I'm sure it's fine.

MS. LOCEY: I will offer a motion to grant on the application of Thomas Hurley his request for five foot side yard setback and three foot rear yard setback for proposed 24 foot above-ground pool all the 2036 Independence Drive in an R-3 zone.

MS. GANN: I will second the motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE
MR. KANE	AYE

JOHN_&_SHARON_BETTS_(06-07)

MR. KANE: Request to replace existing single-family home with a larger single-family home.

Mr. John Betts appeared before the board for this proposal.

MR. BETTS: John Betts, 1033 Route 94, Vails Gate.

MR. KANE: Tell us what you want to do again.

MR. BETTS: I want to take the existing structure that's there and add to it, make it a larger structure, what's sitting there now is a 24 x 48 mobile home and I want to turn it into a single family residence going to be approximately 42 x 48.

MR. KANE: Similar in size and nature to other homes that are in your neighborhood?

MR. BETTS: Yes.

MR. KANE: Cutting down any substantial trees or vegetation in the building of it?

MR. BETTS: Not a bit.

MR. KANE: Creating any water hazards or runoffs?

MR. BETTS: No.

MR. KANE: Any easements where you want to build?

MR. BETTS: No, on the plot plan I supplied to you folks I showed it proposed 27 feet 8 inch setback, my architect spoke with me earlier this week and he suggested I ask you folks for 25 foot setback.

MR. LUNDSTROM: Why is that?

MR. BETTS: Well because of the way if you have the plan I sent you of the house itself, if you look at the plan the dining room is in the middle of the house with no windows and he tells me that that can't be considered a room because it has no windows, the Town would consider it storage, and in order to make this more realistic he has to just change my plan there a little bit and just pushes it back a couple feet toward the rear.

MR. KANE: Problem is by law all that had to be in the paper already.

MR. BABCOCK: No, Mr. Chairman, actually, he's here because he's expanding non-conforming uses, not here for setbacks, he's not even allowed to be there, so the setbacks are a moot point now, so what we're going to do if he's successful in getting approval tonight we're going to approve this plan.

MR. KANE: That answers my question.

MR. BETTS: But I need to get 25 feet.

MR. KANE: Legally things go in the paper they've got to be there so that was my concern.

MR. BABCOCK: If it was advertised that it was going to be 27 feet from the property line that would be an issue for you, so it shouldn't be so it's 25 feet.

MR. BETTS: That's what he said, ask for 25 feet, the square footage of the new structure is going to be the same, just might have to just massage it a little bit because that was my only design, my wife's design and we didn't realize it, that the room needed a window to be a room.

MR. BABCOCK: John, is there also the two car garage is

on this?

MR. BETTS: Yes, should be right here.

MR. BABCOCK: I have it, I just want to make sure I have a plan with it and I have a plan without it.

MR. KANE: At this point I will open it up to the public, ask if anybody in the audience is here for this particular hearing. Nobody cares. Bring back to Myra, how many mailings?

MS. MASON: Well, this is actually a continuation of a public hearing so on March 23, we mailed out 23 envelopes, public hearing was held on April 10 and tabled until tonight so we readvertised on May 9 of the continuation of the public hearing.

MR. KANE: All right so what we technically have to do then I need one of you to take it up off the table.

MR. LUNDSTROM: So moved.

MS. GANN: Second it.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE
MR. KANE	AYE

MR. KANE: You have all the data in front of you, I will accept a motion.

MS. LOCEY: Your application may I ask your application has changed are you removing the mobile home?

MR. BETTS: No, I'm going to add to it.

MS. LOCEY: So you're now putting the addition on the mobile home and leaving the existing house?

MR. BABCOCK: Yes.

MR. BETTS: That's correct.

MS. LOCEY: Okay.

MR. KANE: Any other questions?

MR. BETTS: Obviously new foundations.

MR. KANE: All the standards have to be met by the building department.

MS. LOCEY: I just was confused because when I read these notes it said that it was a favorable project in one simple step we'll remove the mobile home from the property and--

MR. BETTS: What I meant by remove the mobile home remove the mobile home status and make it single family residence.

MS. LOCEY: That's the only question.

MR. KRIEGER: So the mobile home isn't too mobile, pretty stationary.

MR. BETTS: Well, you could but who wants to buy it and move it.

MR. KANE: Any other questions? I'll accept a motion.

MS. LOCEY: I will offer a motion on the application of John and Sharon Betts to approve their request to replace an existing single family home with a larger single family home in a C zone on Route 94.

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MR. TORPEY: I will second it.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE
MR. KANE	AYE

CARLOS_GOMEZ_(06-23)

MR. KANE: Request for 33 ft. rear yard setback for proposed attached rear deck at 8 Cresthaven Drive.

Mr. Carlos Gomez appeared before the board for this proposal.

MR. KANE: Tell us what you want to do.

MR. GOMEZ: I want to build an attached 16 x 16 foot deck attached to the rear of the house.

MR. KANE: Cutting down any trees, substantial vegetation in the building of the deck?

MR. GOMEZ: No.

MR. KANE: Creating any water hazards or runoffs?

MR. GOMEZ: No, sir.

MR. KANE: Any easements?

MR. GOMEZ: No.

MR. KANE: The deck is replacing the set of steps that are currently there?

MR. GOMEZ: Yes.

MR. KANE: Without the deck and steps walking out the door you would consider a hazard?

MR. GOMEZ: Well, until the deck is built, yes. But it's just me and the family and the dog and my wife.

MR. KRIEGER: It will be a hazard to those people.

MR. KANE: The deck itself is going to be similar in

size and nature to other decks that are in your neighborhood?

MR. GOMEZ: Yes, it is.

MR. KANE: Any easements, did I ask that, any easements?

MR. GOMEZ: They're all in the front, nothing to the back.

MR. KANE: What size deck?

MR. GOMEZ: 16 x 16.

MR. KANE: I will open the public portion of the meeting and ask if anybody's here for the meeting. Let the record show there's nobody in the audience. Ask Myra how many mailings we had.

MS. MASON: On May 5, I mailed out 82 envelopes and had no response.

MR. KANE: Any further questions by the board? I'll accept a motion.

MS. GANN: I will offer a motion that we grant Carlos Gomez request for 33 foot rear yard setback for proposed attached rear deck at 8 Cresthaven Drive in an R-4 zone.

MR. LUNDSTROM: I will second that motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE
MR. KANE	AYE

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MR. LUNDSTROM: Motion to adjourn.

MS. GANN: Second it.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MR. TORPEY	AYE
MS. LOCEY	AYE
MR. KANE	AYE

Respectfully Submitted By:

Frances Roth
Stenographer

